HIGH COURT OF CHHATTISGARH AT BILASPUR

(25)

M.A. No.1288/2005

CORAM : Hon'ble Shri S.R.Nayak, Chief Justice
& Hon'ble Shri Dilip Raosaheb Deshmukh, Judge

Appellant Non-Applicant No.3		Branch Manager, National Insurance Company, Branch-1 Naveen Bazar, G.E. Road, through the Divisional Manager, Divisional Office, Bilaspur Branch, Near Gazibo Hotel, Taha Complex, Vyapar Vihar Road, Bilaspur
		VERSUS
Respondent No. 1 Applicant	(a)	Nirmala Rawate, W/o Late Toran Rawate, Aged about 20 years, R/o Sirsakala, Post-Sirsakala, Bhilai East, P.S. Bhilai-3, Distt. Durg (Chhattisgarh)
	(b)	Neeraj Rawate, S/o Late Toran Rawate, Aged about 26 days (Minor) Through Natural Gaurdian-Mother Nirmala Rawate, R/o Sirsakala, Post-Sirsakala, Bhilai East, P.S. Bhilai-3, Distt. Durg (Chhattisgarh)
	(c)	Sukhiram, S/o Tijauram, aged about 70 years, R/o Village-Guma, P.S. Urla, Tehsil and Distt. Raipur (CG)
	(d)	Smt Budhia Bai, W/o Sukhiram, aged about 65 years, R/o Village-Guma, P.S. Urla, Tehsil and Distt. Raipur (CG)
Respondent No. 2 Non-Applicant No. 1		Shyam Kumar Verma, S/o Loknath Prasad Verma, aged about 42 years, R/o Lodhipara, Raipur (CG)
Respondent No. 3 Non-Applicant No. 2		Onkar Singh (Vehicle Owner) Through Mata Garrage, Pandari, Raipur (CG)

Present: - Shri N.K. Agarwal, Senior Advocate with Shri Qamarul Aziz, counsel for the appellant-Insurance Company.

(26)

ORAL ORDER
(Passed on 30th January, 2006)

The Following order of the Court was passed by **S.R.NAYAK, C.J.**

1. In this appeal preferred by the Insurance Company, the only ground urged by the learned counsel for the appellant is that though admittedly the deceased was earning monthly income of Rs. 2,250/- per month as office boy in a private school, the M.A.C.T. has taken his monthly income as Rs.4,500/- for assessing loss of dependency and this error committed by the M.A.C.T. is substantial in nature.

2. The M.A.C.T. having regard to the age of the deceased on the date of the accident and his prospect of earning, more income in future years and placing reliance on the judgment of the High Court in the case of *General Manager, K.S.R.T.C. Vs. Sushma Thomas* reported in **1994 ACJ 01, 1994 (1) T.A.C. (S.C.),** has taken the monthly income of the deceased at Rs. 4,500/- per month and having deducted one-third of the same towards personal expenses of deceased, has computed actual loss of dependency by applying multiplier 18. The deceased left behind him a young widow, minor son and both the parents. The facts and circumstances of the case are such that we should not interfere with the impugned award. What is awarded by M.A.C.T., in our considered opinion, is just and reasonable within the contemplation of the Motor Vehicle Act, 1988. There is no failure of justice.

3. No ground is made out. The appeal is dismissed. No costs.

Sd/-
Chief Justice

Sd/-
Dilip Raosaheb Deshmukh
Judge